

USDC SDNY
DOCUMENT

Case 1:07-cv-07835-RMB-KNF

Document 47

Filed 06/20/2008

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ELECTRONICALLY FILED

DOC #: UNITED STATES DISTRICT COURT

DATE FOR THE SOUTHERN DISTRICT OF NEW YORK

PETE LIVINGSTON,

Plaintiff,

v.

KEYA MORGAN aka KEYARASH
MAZHARI aka KEYA MAZHARI,
KEYA GALLERY, AND DOES 1-100

Defendants.

*Motion re l. to discovery
should be made before J. Fox
Motion #47 is denied without
prejudice.*

Case No. 07-CV-7835 (RMB) (KNF)

PLAINTIFF'S MOTION TO COMPEL
DEFENDANT KEYA MORGAN'S
DEPOSITION

SO ORDERED:
Date: 6/24/08 *Richard M. Berman*
Richard M. Berman, U.S.D.J.

Plaintiff, Pete Livingston, through his attorneys, Smith, Sovik, Kendrick & Sugnet, P.C., pursuant to Federal Rule of Civil Procedure 37(a) hereby files his Motion to Compel Defendant Keya Morgan's Deposition.

I. Factual Background

On January 22, 2008, a status conference was held before the Honorable Richard M. Berman wherein the Court directed that all fact discovery be completed by May 1, 2008. Defendants requested an extension of time to answer the Complaint and then submitted a letter to the court on February 20, 2008, expressing their intent to file a motion to dismiss Plaintiff's Complaint. The Court scheduled a pre-motion conference for March 11, 2008, to discuss Defendants' intention to file a motion to dismiss. Neither party, however, had engaged in any discovery to that point because it was assumed, albeit incorrectly, that discovery was stayed during the pendency of Defendants' motion to dismiss. The Court, however, indicated during the March 11, 2008, conference that discovery was not stayed, despite the pendency of the motion to dismiss, and the parties should comply with the discovery deadlines established during the January 22, 2008, conference. Plaintiff thereafter diligently pursued discovery from